

## PROCEDURES FOR THE EARLY MEDIATION PILOT PROJECT

**(a) Early Mediation.** All civil cases, except those identified below, are required to submit to Early Mediation.

- 1) Family Law;
- 2) Guardianship and Probate, including matters governed by the Trusts and Estate Dispute Resolution Act (“TEDRA”);
- 3) Cases submitted to Mandatory Arbitration under the Local Rules for Mandatory Arbitration;
- 4) Trials de novo pursuant to MAR 7.1;
- 5) Adoption;
- 6) Receivership;
- 7) Juvenile Dependency;
- 8) Condemnation;
- 9) Administrative Law Review;
- 10) Land Use Appeal;
- 11) Appeals from Courts of Limited jurisdiction; and
- 12) Any case not governed by the Civil Case Schedule as provided in LCR 4(b).

Any party may seek to be exempted from mandatory early mediation by motion, upon establishing extraordinary circumstances and no alternative means of preventing a substantial injustice. If the request for exemption is denied, the parties shall file their Mediation Plan within 30 days from the date of such denial.

**(b) Early Mediation Plan.** Within 120 days from the filing of the Complaint, the parties shall jointly file a Mediation Plan. The Mediation Plan shall contain the following information: (1) an affirmation that the parties have met and conferred regarding mediation; (2) the date upon which the meet and confer occurred; (3) the mediator agreed upon and selected by the parties; (4) the date(s) upon which the mediation shall take place; (5) the identification of any limited discovery that shall take place prior to the mediation; (6) the identification of issues to be addressed at the mediation, including possible procedures to narrow the claims at issue and discovery in the lawsuit; and (7) a description of written submissions, if any, to be made by the parties to the mediator and the date upon which such submissions shall be made.

**(c) Date of Mediation.** The mediation must be conducted no later than 120 days before the discovery cutoff date specified in the Order setting the case schedule.

**(d) Mediation Attendees.** The parties shall personally attend the mediation, unless excused in advance by the mediator. Each party may also have present any other persons whom they believe will be helpful to achieve settlement. Parties whose defense is provided by a liability insurance company need not personally attend the mediation, but a representative of the insurer shall attend in person with sufficient authority to bind the insurer to a settlement.

**(e) Mediation Reports.**

*(1) Notice of Settlement.* If a settlement is reached at mediation, the parties shall file a Notice of Settlement in accordance with LCR 41(e).

*(2) Mediation Confirmation Report.* If a complete settlement is not reached, upon completion of the mediation, but no later than ten (10) days after the mediation, the parties shall submit a Mediation Confirmation Report to the court indicating: (A) the date of the mediation; (B) the name of the mediator; (C) the names and titles of all persons present; (D) a statement that the mediation did not result in a complete settlement; and (E) the identification of the settlement of any individual claims or issues. If the parties have determined that further mediation is warranted, the parties shall inform the court of the date and time for the next scheduled mediation and shall identify what, if any, limited discovery shall take place prior to the mediation. Unless stipulated by the parties or ordered by the court, the mediation process shall not suspend discovery.

**(f) Sanctions for Failure to File Plan.** If a party willfully fails to file an Early Mediation Plan or willfully fails to participate in the mediation, sanctions may be imposed by the court, including dismissal of claims asserted by the party, default judgment, and/or attorney's fees and costs.